



**The Comptroller General
of the United States**

Washington, D.C. 20548

Weiskopf

Decision

Matter of: Agema Infrared Systems, Inc.

File: B-225856.2

Date: April 28, 1987

DIGEST

Protest that the awardee's proposed thermal imaging system failed to comply with requirements of the solicitation lacks merit where, in response to the contracting agency's request for additional information from offerors, the awardee clearly indicated compliance with the requirements.

DECISION

Agema Infrared Systems, Inc. contends that the Navy improperly awarded a contract to Hughes Aircraft Company under request for proposals No. N00612-86-R-0538 for two portable thermal imaging systems. The Navy intends to use the systems to inspect the electric and thermo-mechanical systems of submarines for areas of high temperature indicating weaknesses or defects in the latter systems. Through such inspections, the Navy hopes to prevent potentially catastrophic failures before they occur. Agema contends that Hughes' proposal failed to unequivocally offer a typewriter style computer keyboard as required by the solicitation. Agema argues in the alternative that even if Hughes proposed to provide a keyboard, it was not embedded into the imaging system and therefore was not portable as required.

The RFP, as amended, required that the imaging system be portable and that all equipment for 2 hours portable operation not weigh over 35 pounds, including a battery and carrying harness for the components of the system. Those components were described as an infrared radiation scanner plus a monitor with processing electronics, a camera and a power supply. In addition, the RFP provided that the monitor must "have capability for input from a typewriter style (QWERTY) computer keyboard for temperature computation and data input." Award was to be based on the lowest total price.

In responding to the RFP Hughes did not specifically address the portableness or keyboard requirements

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until the Navy during discussions asked for more information about its proposed system. Hughes responded by letter dated July 29, 1986 stating that its system is portable and "comes standard with a typewriter style (QWERTY) keyboard."^{1/} The Navy determined that Hughes' proposal complied with the RFP's requirements and awarded Hughes the contract based on its low price.

We think that Hughes' response to the agency's request for information shows that the proposed system complied with the RFP's requirements for a portable system with keyboard input capability. The protester argues, however, that this information should not be considered in determining whether Hughes' proposal complied with the RFP since Hughes did not expressly incorporate the information into its best and final offer. We disagree. The information provided by Hughes described its proposed Probeye Thermal Video System Model 7300, and the Navy properly considered Hughes' letter in connection with Hughes' best and final offer as obligating the firm to deliver that model with the described features. The Navy therefore properly considered the information in evaluating Hughes' proposed system. In this regard, we note that the protester was not treated unfairly since it also was asked to submit further information about its system.

The protester submitted a Hughes brochure showing a keyboard embedded in the computer beneath a monitor, and asserts that the computer and, therefore, the system are not portable. It is not at all evident from the brochure that the computer is larger than a portable typewriter, and in this regard the brochure states that the system is fully portable. Furthermore, the brochure describes Hughes' Probeye Model 7100 as the first and most affordable of the Probeye series and does not depict the Model 7300. The record thus provides no basis to conclude that the Model 7300's keyboard is embedded in a non-portable computer. Further, we point out that the RFP did not require the same degree of maneuverability from the monitor and computer as the scanner; the scanner was required to be capable of use in a 30-inch space between submarine components whereas the entire system was required only to fit through and into small spaces to provide for ease of movement through the submarine.

Finally, Agema suggests that the RFP's language requiring monitor "capability" for input from a keyboard

^{1/} The material submitted by Hughes under the RFP was not disclosed to Agema, but was presented to this Office for our in camera review.

did not clearly require that keyboards had to be included in the offers, and therefore offerors did not compete on an equal basis. Since the record shows both Hughes and Agema submitted their offers on the basis of providing the keyboards, they competed on an equal basis and the award to Hughes based on its lower price was proper.

The protest is denied.

for *Raymond E. Van*
Harry R. Van Cleve
General Counsel